UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/587,671	07/27/2006	Michael Maschke	2003P17536WOUS	8478

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Siemens Corporation
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EXAMINER
BRUTUS, JOEL F

ART UNIT	PAPER NUMBER
3777	

MAIL DATE	DELIVERY MODE
11/23/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *15 September 2010*.
2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *11-24* is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) *11-24* is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All   b)☐ Some * c)☐ None of:
      1.☐ Certified copies of the priority documents have been received.
      2.☐ Certified copies of the priority documents have been received in Application No. _____.
      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed
> or described as set forth in section 102 of this title, if the differences between the
> subject matter sought to be patented and the prior art are such that the subject
> matter as a whole would have been obvious at the time the invention was made
> to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was
> made.

2.   Claims 11-15, 19, 21 and 24 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Banik et al (Pub. No.: US Pat: 2005/0197536) in view of

Malackowski (Pub. No.: US 2004/0267297) 0040].

Regarding claims 11 and 20, Banik et al disclose a video endoscope system

includes a control cabinet and an endoscope that is pertinent to the device and the

method as claimed. Banik et al disclose a control cabinet 102 that includes an imaging

subsystem 114 that controls the taking of the high energy image of an image sensor

[see 0084].

Banik et al disclose gain control of the system is implemented by adjusting the

intensity of the illumination (current supplied to the LEDs) and adjusting the gains

applied to the signals by the CMOS imager. Banik et al disclose imaging subsystem

114 also includes circuitry for transmitting control signals to the image sensor and for

receiving image signals from the image sensor [see 0084].

Banik et al disclose navigation, image, display and data entry controls are integrated into the system [see abstract]. The system could also prompt the user with default operating parameters for the instruments [see 0094]. Banik et al disclose a control cabinet that has a controller interface to receive commands from an input device and to control orientations and functions of the imaging endoscope [see 0078]

Banik et al don't specifically and explicitly mention controlling the imager based on identification code of an adjuvant (which could be implants, contrast agents, etc.. emphasis added).

However, Banik et al disclose control cabinet may also contain a barcode scanner or radio frequency identification RFID scanner, which would allow the identification of tools that are inserted into the working channel of the endoscope [see 0093-0094]. Furthermore, Banik et al disclose implantation of bulking agents, implants and replacement of valves or other techniques to aid in closure of the lower esophageal sphincter (LES) [see 0227].

Banik et al disclose imaging subsystem coupled to control cabinet that adjusts parameters of imager such gain, or intensity of LED image sensors based on inserted tools [see 0073-0074, 0084]. As explained herein, the implants would have been scanned with an identification code and the imaging subsystem would adjust the intensity of the imager based on the type of implants or agents inserted.

In addition, Malackowski discloses a control console that controls an image guided surgery based on reading RFID of tools, prompt implant detection, identify and verify implant [see fig 27, 0040] and further mention implant recognition system of this

invention can be used to facilitate the performance of image guided surgery [see 0040 and fig 27].

Therefore, one skilled in the art at the time the invention was made would have been motivated to control or adjust the intensity of the imager of the endoscope based on identification of agents or implants inserted as suggested by Banik et al above or combining Banik et al with Malackowski; in order to provide proper exposure onto the imager [see 0073, Banik et al].

Regarding claim 12-15 and 21, Banik et al disclose one or more memories [see 0055, 0091, 0095, 0113] that can be used to store operating parameters (emphasis added). Banik et al disclose navigation, image, display and data entry controls are integrated into the system [see abstract]. The system could also prompt the user with default operating parameters for the instruments [see 0094, 00662 and 0066].

Banik et al disclose bar code scanner as input device [see 0094 and 0078].

Regarding claims 19 and 24, Banik et al disclose the object is a patient [see 0061].

3.   Claims 16-17 and 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Banik et al (Pub. No.: US Pat: 2005/0197536) in view of Malackowski (Pub. No.: US 2004/0267297) 0040] as applied to claims 11 and 20 above and in further in view of Binkert et al (2003/0197734).

Regarding claims 16-17 and 22-23, all other limitations are taught a set forth by the above teaching.

Banik et al et al don't explicitly mention displaying x-ray image of a stent and an adjacent region within the object.

However, Banik et al disclose a display [see 0062, 0066 and 0113] that can display the implants (emphasis added).

Nonetheless, Blinkert et al teach an image of the suggested stent graft is displayed inserted in the graphic of the vessels in a graphic user interface [see 0020]. Blinkert et al teach CT or MR imaging [see 0220].

Therefore, one with ordinary skill in the art at the time the invention was made would have been motivated to combine Banik et al with Blinkert et al by displaying a stent and an adjacent region within the object as taught by Blinkert et al; in order to provide accuracy and increased visualization.

4.   Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Banik et al (Pub. No.: US Pat: 2005/0197536) in view of Malackowski (Pub. No.: US 2004/0267297) 0040] as applied to claims 11 and 20 above and in further in view of Anderson et al (US Pat: 6,394,952).

Regarding claim 18, Banik et al don't explicitly mention displaying concentration of contrast agent.

However, Anderson et al teach data collected from the test strip are compared to a threshold or reference reflectance value to determine the presence or concentration of

the analyte. The output can be displayed via an operator interface, or can be output to another computer or apparatus [see column 26 lines 27-40 and column 25 lines 57-60].

Therefore, one with ordinary skill in the art at the time the invention was made would have been motivated to combine Banik et al with Anderson by displaying a concentration of contrast agent or dye; in order to evaluate the image as to adjust a parameter of the imaging unit such as the intensity to enhance visualization of the diagnosed area.

Response to Arguments

5.   Applicant's arguments with respect to claims 11-24 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOEL F. BRUTUS whose telephone number is (571)270-3847. The examiner can normally be reached on Mon-Fri 7:30 AM to 5:00 PM (Off alternative Fri).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Long Le can be reached on (571)272-0823. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. F. B./
Examiner, Art Unit 3777

/Tse Chen/
Supervisory Patent Examiner, Art Unit 3777